

No. 1994-79

## AN ACT

HB 490

Amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, prohibiting the use of gill nets on Lake Erie.

The General Assembly of the Commonwealth of Pennsylvania finds:

(1) The power of the Commonwealth to protect and manage fish in Commonwealth waters is inherent in the sovereignty of the Commonwealth.

(2) Persons who are granted commercial fishing licenses to fish with gill nets have no property interest in these licenses or fundamental right to continue fishing with such gear.

(3) The Commonwealth in the exercise of its sovereign power to protect and manage fishes in the waters of the Commonwealth has the power and duty to discontinue issuance of licenses for use of gill nets for commercial fishing in boundary lakes.

(4) Elimination of commercial fishing with gill nets on boundary lakes will provide for the better protection and management of the fisheries of boundary lakes.

(5) Although holders of commercial fishing licenses to use gill nets in boundary lakes have no property interest in these licenses and no expectation that these licenses will continue to be issued, the Commonwealth may provide compensation to licensees to ease the transition from fishing with gill nets.

(6) It is appropriate for those engaged in sport fishing in Lake Erie and Presque Isle Bay to pay the cost of providing recompense to holders of commercial fishing licenses to use gill nets in boundary lakes by means of a limited duration special permit.

The General Assembly of the Commonwealth of Pennsylvania declares that the purpose of this act is to provide for the orderly discontinuance of use of gill nets for commercial fishing on Lake Erie and other boundary lakes of this Commonwealth and provide compensation for holders of gill net licenses issued under 30 Pa.C.S. § 2903.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2903(b) and (g) of Title 30 of the Pennsylvania Consolidated Statutes are amended and the section is amended by adding a subsection to read:

§ 2903. Boat and net licenses for boundary lakes.

\* \* \*

(b) Issuance and fees.—The commission may issue a commercial fishing license to a person who has signed and submitted his application and paid a fee as follows:

(1) Boats less than 26 feet in length used in fishing with gill nets: residents \$150; nonresidents, \$300.

(2) Boats 26 feet or more but less than 40 feet in length used in fishing with gill nets: residents, \$250; nonresidents, \$500.

(3) Boats 40 feet or more but less than 60 feet in length used in fishing with gill nets: residents, \$400; nonresidents, \$800.

(4) Boats 60 feet or more in length used in fishing with gill nets: residents, \$600; nonresidents, \$1,200.]

(5) Boats less than 60 feet in length used in fishing with a travel net: residents, \$200; nonresidents, \$400.

(6) Trap nets: residents, \$80; nonresidents, \$160.

(7) Seines: residents, \$50; nonresidents, \$100.

(8) Outlines: residents, \$10; plus valid fishing license; nonresidents, \$20 plus valid fishing license.

\* \* \*

(g) [Pound] *Certain* nets prohibited.—The use of pound nets *or gill nets* for fishing on boundary lakes is prohibited.

(h) *Gill nets*.—

(1) *On and after January 1, 1996, the use of gill nets for fishing on boundary lakes shall be prohibited.*

(2) *The commission shall establish a gill net licensee recompense program whereby persons holding 1992 licenses to use gill nets on boundary lakes shall be recompensed as provided in this paragraph. The amount of the payment to each licensee shall be based on the average of the licensee's two highest years of catches taken with gill nets for the years 1990, 1991, 1992, 1993 and 1994. The payment shall be the product of such average catch multiplied by the average value received for such catch as reported to the commission.*

Section 2. Title 30 is amended by adding a section to read:

§ 2907.2. *Lake Erie fishing permits.*

(a) *Permit required.—On and after January 1, 1995, no person shall fish in the Pennsylvania waters of Lake Erie, Presque Isle Bay and their tributaries without first procuring an annual special permit for such fishing.*

(b) *Fee.—The annual fee for the special permit issued in this section shall be \$3 plus a service fee of 50¢ for the issuing agent.*

(c) *Exemptions.—Persons entitled to free fishing licenses under section 2707 (relating to disabled veterans) and persons exempt from fishing license requirements under Chapter 27 (relating to fishing licenses) are exempt from the requirements of this section. Holders of Senior Resident Lifetime Fishing Licenses issued under section 2701 (relating to resident*

*fishing licenses) shall meet the requirements of this section by purchasing one annual special permit which shall be valid for the licensee's lifetime.*

*(d) Regulations.—The commission may promulgate regulations for the display of the special permit and manner in which it may be affixed to the fishing license or carried with the licensee.*

*(e) Penalty.—Any person violating the provisions of this section or the regulations promulgated hereunder commits a summary offense of the third degree.*

*(f) Proceeds from special permit.—The proceeds from the special permits issued under this section shall be deposited into a restricted account within the Fish Fund, which account shall be used for paying recompense to holders of gill net licenses for boundary lakes as provided in section 2903(h) (relating to gill nets) and for the costs of administering the recompense and special permit programs.*

*(g) Termination of permit requirement.—The special permit program established by this section shall terminate when the commission determines that sufficient funds have been raised to defray the recompense and special permit program costs, provided that in no event shall special permits be required on or after January 1, 2001.*

*(h) Accounting.—The commission shall provide an annual accounting of the permit program to the Committee on Game and Fisheries in the Senate and the Committee on Game and Fisheries in the House of Representatives.*

Section 3. This act shall take effect immediately.

APPROVED—The 5th day of October, A.D. 1994.

ROBERT P. CASEY